

Service Date: October 6, 1999

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Pass Through of Fees)	UTILITY DIVISION
Levied on Regulated Companies for Funding the)	DOCKET NO. D99.9.221
Office of the Montana Consumer Counsel.)	ORDER NO. 6201

FINAL ORDER

1. Section 69-1-223, MCA, provides for funding the office of the Montana Consumer Counsel (MCC) by a tax (fee) on all regulated companies (as defined at 69-1-201(3), MCA). The Department of Revenue has notified the Public Service Commission (PSC) of the tax rate which will be effective for the period beginning October 1, 1999 and ending September 30, 2000. Section 69-1-224(4), MCA, requires that the PSC "by separate order authorize each regulated company to fully recover in its rates and charges, on an annual basis, the fees levied" This Order is being issued pursuant to that requirement.

2. The applicable rate for the tax period beginning October 1, 1999 is .08 percent (.0008). In order to permit full recovery of the MCC fees, this Order permits all regulated companies affected by this Order to reflect this tax rate in their revenue requirement as of October 1, 1999.¹ All rate regulated companies that pay the MCC fee may file tariffs reflecting the .08 percent tax rate.

3. The tax rate for the period October 1, 1998 through September 30, 1999 was .1 percent. Companies collecting at the .1 percent rate, or a rate higher than .08 percent, will be required to change their rates. Companies that are recovering the MCC tax at the .1 percent rate (or greater than .08 percent) must file new tariffs by November 1, 1999; or, in the alternative,

¹ "[R]egulated companies affected by this Order" means those companies that are rate regulated by the PSC. Other companies regulated "in any manner" (. 69-1-401(2), MCA) by the PSC are subject to the MCC tax but do not need special authorization to recover the tax in their prices.

these companies must accrue the over collection beginning October 1, 1999 and include it with a later tariff change. Such tariff change may not occur later than October 1, 2000.

4. Except for regulated companies that are currently recovering the MCC tax at a rate higher than .08 percent, the filing of tariffs reflecting the rate authorized by this Order is permissive, not mandatory. Regulated companies may choose not to recover the MCC tax, or may choose to continue recovering less than the current tax, in cases where the amount to be recovered would not justify submitting new tariffs. A regulated company may choose to defer implementing tariffs reflecting the tax until a later date (e.g., to coincide with other tariff changes), consistent with paragraph 3, above.

5. All regulated services of a rate regulated company must absorb the rate increase proportionately to that service's contribution to the total gross operating revenue generated by the regulated activities within this state. As limited exceptions to this general approach, however, the floors in "flexible band" tariffs need not be exceeded and special market-based rates need not be increased.

CONCLUSIONS OF LAW

1. Pursuant to §§ 69-3-102, 69-3-801 through 69-3-862, 69-3-1401 through 69-3-1409, 69-8-101 through 69-8-503, 69-12-201, 69-13-201, and 69-14-111, MCA, the Montana Public Service Commission has jurisdiction over regulated companies as defined at § 69-1-201, MCA.

2. The Public Service Commission is required by § 69-1-224(4), MCA, to allow immediate recovery of the regulated utility fee by each affected company in its rates and charges on an annual basis.

3. This Order does not apply to companies not rate regulated by the PSC.

4. The increased revenue requirement approved herein is a reasonable means of complying with § 69-1-223 et seq., MCA.

ORDER

Regulated companies as defined at § 69-1-201, MCA, are authorized to file tariffs reflecting an MCC tax rate of .08 percent effective November 1, 1999, consistent with the Findings in this Order. This authorization is permissive, not mandatory and effective dates may, at the companies' discretion, be after November 1, 1999.

Regulated companies whose rates reflect an MCC tax of greater than .08 percent must either file new rates or accrue the over collection to a later rate change consistent with the Findings in this Order.

Tariffs must be filed within fifteen (15) days of their proposed effective date.

DONE AND DATED this 5th day of October, 1999 by a vote of 3-1.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair, Dissenting

BOB ANDERSON, Commissioner

GARY FELAND, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.